

1 TERRI KEYSER-COOPER  
Law Office of Terri Keyser-Cooper  
2 Nev. Bar #3984  
3590 Barrymore Dr.  
3 Reno, NV 89512  
Tele (775) 337-0323  
4 *Attorney for Plaintiff Lauren Kettell*

5  
6  
7 **UNITED STATES DISTRICT COURT**  
8 **DISTRICT OF NEVADA**  
9

10  
11 LAUREN KETTELL,

**Case No.**

12 Plaintiff,

**COMPLAINT**  
**JURY DEMAND**

13 vs.  
14

15 WASHOE COUNTY DEPUTY  
BRENT COSS,

16 Defendant.  
17  
18  
19 \_\_\_\_\_/

20 **JURISDICTION AND VENUE**

21 1. This Court has jurisdiction of this action pursuant to 28 U.S.C. §§ 1331, 1343, 2201; 42  
22 U.S.C. §§ 1983 and 1988; and pendent state claims.

23 2. Venue in this action is appropriate in the District of Nevada pursuant to 28 U.S.C.  
24 Section 1391(b).

25 **PARTIES**

26 3. Plaintiff LAUREN KETTELL is a resident of San Mateo, California.

27 4. Defendant BRENT COSS is and at all relevant times was a Washoe County Sheriff's  
28 Deputy acting under color of law.



1 actions, COSS lead KETTELL and Pessah to believe that if they complied with his directive to get life  
2 jackets, they would be in full compliance with his orders. COSS turned is boat around and went about  
3 his business.

4 11. KETTELL and Pessah continued heading west, paddling directly back to the  
5 grandparents' home. It was their intention to get the jackets and return to the lake for more paddle  
6 boarding. The jackets were located in a bin on the beach at the grandparents' home.

7 12. Approximately four minutes later, when they were approximately 50-75 yards from the  
8 home of KETTELL'S grandparents and their destination,<sup>2</sup> COSS' boat was again upon them, charging  
9 them. An unsafe situation quickly developed. KETTELL lost her balance, dropped to her knees, and  
10 suddenly found herself sitting on her legs, kneeling and grabbing desperately at the front of the  
11 paddleboard with both hands trying to stabilize the board and keep it from plunging her into the lake.  
12 As she kneeled, her breasts became more exposed while COSS and the men on his boat stared wide-  
13 eyed, openly ogling her as if they had never before seen a woman in a bathing suit. Their lecherous  
14 stares made KETTELL extremely uncomfortable. While she was uncomfortable with their stares, she  
15 was also busy trying to balance herself from getting thrown into the water. It was a dangerous situation  
16 that could easily have been avoided had COSS simply turned off the engine.

17 13. COSS directly and specifically yelled at KETTELL in an angry belligerent tone: "What  
18 the Hell are you doing?" He seemingly failed to understand they were doing precisely what he had  
19 directed them to do: go get life jackets. COSS' anger shocked KETTELL. She immediately informed  
20 him they were doing precisely as he directed. KETTELL told Coss: "Our life jackets are at our house."  
21 Adding, "I'm doing what you asked me to do." She again pointed to her grandparents' house and the  
22 location of the bin containing life jackets. COSS stared at KETTELL, ogling her in her bikini, looking  
23 at her lasciviously and ignoring Pessah who stood next to KETTELL on his paddleboard. Pessah was  
24 also pointing directly to the house on the beach where the life jackets were kept.

25 14. As COSS angrily talked to KETTELL, she was startled at his sudden fury and irrational  
26 tone. He had just, moments before, given her express approval to return to her grandparents' home to  
27 retrieve life jackets after she had told him the life jackets were located at her grandparents' home. They

---

28 <sup>2</sup> All reference to locations is approximate and based on best information.

1 were on route, going to her grandparents' house, doing exactly what they told him they would do and  
2 he was now behaving like a lunatic.

3 15. None of these men, including COSS paid the slightest attention to Pessah. They were  
4 busy ogling KETTELL, staring at her transfixed. It was as if the young man was invisible, even though  
5 he was standing on a paddle board next to KETTELL in his swim trunks and also without a life jacket.  
6 COSS did not scream at him, question him, or stare at him in a sexual manner as he did with  
7 KETTELL.

8 16. COSS, concentrating his full attention solely on KETTELL, directly instructed only her  
9 to jump off the paddleboard and swim to his boat. KETTELL did not feel comfortable getting into the  
10 boat alone with all of the staring lecherous men and COSS' misplaced anger—and with the boat's  
11 engine idling it did not appear safe to her. In addition, since she was responsible for the borrowed  
12 paddleboard, if she jumped off the board and into the water, she worried the expensive paddleboard  
13 might drift away, get lost, or be damaged.

14 17. She became more distressed when COSS intentionally ignored Pessah's identical  
15 conduct focusing on her alone. COSS failed to request Pessah board his boat. He also failed to  
16 acknowledge, converse, or even make eye contact with Pessah. He treated KETTELL's companion as  
17 if he was not on the scene when in fact he was doing exactly what KETTELL was doing and both were  
18 similarly situated in every regard. It appeared to KETTELL that COSS wanted to lure her away from  
19 Pessah and on to a boat with five lecherous men who were openly staring at her with lustful eyes.  
20 COSS' singular invitation and distressing attention focused on her alone frightened her even more.  
21 There was no rational explanation for why COSS would treat KETTELL so radically different from  
22 Pessah.

23 18. While wobbling on her board, KETTELL pleaded with COSS to continue the  
24 conversation on the beach, approximately 50-75 yards away. It was a tense situation: COSS was  
25 screaming, the engine of his boat was creating a wake, and KETTELL was exerting effort to both  
26 balance on the board and to understand why COSS had suddenly changed his mind about sending her  
27 to shore to get a life vest. Both options, continuing the conversation in the midst of occurring  
28 dangerous circumstances and climbing aboard COSS' boat alone raised red danger flags to KETTELL.

1 She knew she could not maneuver and was terrified of COSS and his boatload of ogling perverted  
2 staring companions.

3 19. Noticeably afraid and hesitant, KETTELL suggested to COSS, as an alternative to  
4 getting on his boat, that she remain on the paddleboard while holding onto the side of his boat. COSS  
5 agreed. The combination of both COSS' idling boat and the gentle wind coming from the center of the  
6 lake, made it difficult for KETTELL, who was a novice paddle boarder, to navigate along the side of  
7 COSS' M-9. In attempting to rationally resolve the situation, KETTELL asked COSS if he had an  
8 object that could extend off the side of the M-9 which she could grab for assistance in voluntarily  
9 pulling herself closer to COSS so they could continue to talk. COSS looked around the boat, found a  
10 hook, and extended the hook over the side in her direction. KETTELL, unable to reach the hook with  
11 her arm, extended her oar to hook onto the hook COSS was holding. By so doing, KETTELL was  
12 approximately six feet from COSS' boat.

13 20. COSS pulled KETTELL to the side of his boat, where she remained kneeling on the  
14 paddleboard with one hand hanging onto the side of COSS' boat. COSS asked her name and she  
15 provided it, spelling her name carefully. COSS also requested her birth date and she again complied.  
16 She inquired: "Am I getting a ticket" and if so "Why?" Since the lake was full of paddle boarders  
17 without life vests, she did not know what she had done wrong. She also asked again if she and Pessah  
18 could go to her grandparents' beach house, again pointing to the house. She accurately and truthfully  
19 explained in two separate conversations they were on their way to get life jackets as instructed, but  
20 COSS appeared not to listen and did not respond. While they spoke she was swept dangerously close  
21 to the dock.

22 21. Frightened, both of COSS, the men in the boat, and her precarious position between the  
23 boat, the engine, and the wooden dock, KETTELL cried out: "You're about to run me into this dock  
24 and it's going to smack my head going under the dock!" She lifted her arm to protect herself from the  
25 dock, grabbing the side of the dock to prevent going underneath while still kneeling.

26 22. With a shove, KETTELL pushed away from the dock and the idling boat and yelled at  
27 COSS "I cannot be here anymore," indicate the dangerousness of the situation. She asked "Can we  
28 please talk on my beach" meaning the beach in front of her grandparents' clearly visible beachfront  
home where she had already pointed several times. This time she gave the full address of her

1 grandparents' home and watched while COSS carefully wrote down the address. She did not leave  
2 until COSS knew exactly where she was going.

3 23. Still kneeling, KETTELL paddled to her grandparents' beach in a direct fashion, doing  
4 exactly what she told COSS she would do.

5 24. KETTELL'S announcement that she was going to her grandparents' beach home was  
6 also heard by COSS' male volunteers, who cited in their witness reports that she had provided the  
7 address of the beach house where she was going, giving its complete address. She was not fleeing. She  
8 was not escaping. She was not a flight risk. She was removing herself from an unsafe, escalating  
9 situation while informing law enforcement of her precise intentions along the way.

10 25. As she paddled to her grandparents' home, still kneeling, KETTELL began to relax. Her  
11 grandfather was home and she knew that with his assistance the conflict would be resolved while she  
12 was on land in a safe location. She reasoned that whatever had just occurred was a misunderstanding  
13 would soon be clarified. She trusted the police—she reasoned they were there to help and were  
14 reasonable. She anticipated she would explain to COSS the life jackets were on the beach, he would  
15 see the bin of life jackets, and she would immediately put one on. She had told him exactly where she  
16 was going, she had given him the exact location, and she expected he would follow and they would  
17 sort this issue out. If necessary she would receive a ticket.

18 26. When she arrived at her grandparents' beach she turned and saw COSS charging  
19 towards the location, steering up and on to the sand in front of her, and anxiously beaching the boat  
20 with a dramatic entry. COSS leaped out of the boat, tripped, and stumbled at the water line just as  
21 Pessah paddled up on to the beach. KETTELL began walking towards COSS, thinking she would  
22 answer any questions he might have and they would sort out what had just occurred.

23 27. But COSS had a different idea. He charged KETTELL, seemingly blind with rage. He  
24 did not say a word and did not provide a warning. Wearing her bikini, it was obvious she had no  
25 weapon. At no time did she level a verbal or physical threat to COSS or to anyone else. As COSS was  
26 sprinting towards her, she stood still, waiting to talk to him. He surprised her by grabbing her right arm  
27 and twisting it up as far as it would go behind her back. She was immediately in intense pain. She cried  
28 out, "Why are you doing this?" She had no idea why he attacked her in this manner. She did not resist,

1 nor could she; COSS held her tight and twisted her arm up and behind her back in a way that  
2 completely debilitated her.

3 28. COSS continued to assault KETTELL. He yanked her shoulder with sufficient force to  
4 cause her to face plant directly in the hot sand. The force used by COSS was strong enough to break  
5 the nose piece on her sunglasses. With her face entirely in the hot sand, KETTELL could not catch her  
6 breath. She panicked and cried out, "You're hurting me" swallowing large amounts of hot sand.

7 29. COSS then climbed on top of her. He put his entire weight on her slim helpless body  
8 while pushing his knee high on to her shoulder blades—causing excruciating pain. It is alleged that  
9 COSS outweighed KETTELL by approximately 100 pounds. She felt that her back was being crushed  
10 with his heavy weight while he handcuffed her, pulling and twisting her arm upwards in an extremely  
11 painful position while she inhaled hot sand and tried to breathe. As she tried to breathe, COSS gave her  
12 arm sharp pushes and pulls.

13 30. KETTELL remained with her face in the sand with COSS on top of her for  
14 approximately six to eight minutes, although it seemed to her far longer. COSS handcuffed her. Once,  
15 when she attempted to maneuver into a position that was slightly easier on her shoulder, COSS  
16 maliciously pushed his weight harder into her back. At no time did COSS show the slightest concern  
17 for her safety or condition. He resisted her cries of pain and kept twisting her arm as high up as it  
18 would go, while continuing to make it difficult for her to breathe. Even though she was handcuffed,  
19 face first in the sand, COSS continued to remain on top of her and would not permit her to stand.

20 31. Pessah, watching in horror, shouted "Take me instead!" But COSS continued to ignore  
21 him, giving the bikini clad KETTELL his full attention as he jumped on top of her. Even though  
22 Pessah had done exactly as KETTELL had done, COSS did not focus on him. Pessah was not  
23 threatened, jumped, assaulted, battered, handcuffed, or made the object of force and derision.

24 32. At about this time, KETTELL's grandfather, Thomas A. Leonardini, Sr., appeared. He  
25 announced: "I am her grandfather, why are you hurting my granddaughter? Is she under arrest?" "You  
26 are hurting her, you are hurting her, and can you please relax?" COSS responded to Leonardini by  
27 aggressively pushing him way, telling him to "back off" or he would be placed under arrest.  
28 Leonardini asked the volunteers accompanying COSS for help as he perceived COSS to be out-of-  
control and injuring his granddaughter. The volunteers responded by insisting COSS was in charge and



1 there was nothing they could do. Leonardini asked Pessah to call 911 from inside his home. Pessah  
2 went running away, fleeing to make an emergency call to 911, but COSS did not pay the fleeing  
3 Pessah the slightest attention. COSS, in his official statement, untruthfully describes the encounter  
4 with the Leonardini as the older man running into him with force. This statement is manifestly false as  
5 Leonardini, 70, had polio as a young man and has one leg shorter than the other. He is not capable of  
6 running and has not run in more than 40 years.

7 33. COSS called for “backup.” It is unclear precisely how many backup officers arrived but  
8 it is alleged on information and belief that firefighters, paramedics, and other deputies – perhaps as  
9 many as twelve told arrived. KETTELL was fearful she would be beaten by these backup officers and  
10 terrified of what they would do for her—she alternated between fear and terror as she remained face  
11 first in the sand.

12 34. A paramedic assisted KETTELL in rolling over so she could be helped to her feet.  
13 KETTELL’s bikini top was not on all the way, as the pressure of COSS on top of her tugging at her  
14 and twisting her arm had pushed it down causing her breasts to be exposed in an embarrassing fashion.  
15 As she was handcuffed, she was unable to adjust her bikini top and a paramedic pulled the top straps  
16 up, so she would not be so exposed in front of the audience of 20 plus male officers and the  
17 approximately 10 family friends and neighbors staring at her. This unwanted attention from so many  
18 law enforcement officials and neighbors caused her extreme embarrassment and humiliation. All the  
19 while, COSS stood at her side firmly squeezing the top right part of her arm tightly as if she were a  
20 serial killer instead of someone who neglected to wear a life jacket while paddle boarding.

21 35. KETTELL, previously diagnosed with post traumatic stress disorder, anxiety disorder  
22 and a panic disorder was in high panic. A firefighter said to KETTELL: “I know you’re upset, if you  
23 are calm and quiet like you are now, this will all be resolved.” She told him her right shoulder was  
24 numb, her body hurt, and she was scratched.

25 36. The firefighter asked COSS to release her handcuffs so he could examine her shoulder  
26 but COSS refused, insisting it was not safe to release her, lying to the firefighter that she was trying to  
27 escape. KETTELL, in the midst of a panic attack, could not breathe and was intensely frightened, faint,  
28 and nauseated with a numb sensation throughout her body. Her shoulder was in excruciating pain.



1           37. A paramedic informed KETTELL of her right to seek immediate medical attention,  
2 suggesting it would be a good idea. A female officer announced she would be going to the hospital.  
3 Pessah ran to get her clothes as she was still in her bikini with COSS still holding her by her injured  
4 shoulder. As she drove off to the hospital, her mother also provided bag of clothes for her. At the  
5 hospital the handcuffs were removed and body chains were put on. She remained in intense pain.

6           38. Pessah was not arrested, cited, or threatened in any way. He was ignored by COSS and  
7 the male volunteers. While KETTELL was taken to the hospital, he remained at her grandparents'  
8 home.

9           39. After the hospital, KETTELL was taken to the Incline Village substation. Shortly  
10 thereafter she was taken Reno jail where charges were provided to her and where she remained for  
11 approximately six hours. It was approximately two hours before she was informed of the charges  
12 against her: resisting a public officer, failure to yield to an emergency vehicle, and operating a vessel  
13 without sufficient personal flotation devices, all misdemeanors.

14           40. Following the incident she was bruised for weeks with the bruises clearly showing the  
15 four fingers of COSS' hand. She saw an orthopedic surgeon who put her in a sling for six weeks and  
16 was unable to work at her full time job being a caretaker for children with Autism and lost income. The  
17 orthopedic doctor advised that her tendons were stretched and her range of motion limited directly  
18 from the "wrenching" moves caused by COSS. She had never before experienced shoulder problems.  
19 During the next several months she was on prescription pain medication and suffered difficulty in  
20 sleeping. Her emotional distress, panic, and anxiety continued far longer.

21           41. KETTELL was forced to retain the services of attorney Lawrence Digesti to defend her  
22 in the ensuing criminal proceeding.

23           42. On or about September 20, 2011, Washoe County Deputy District Attorney Aziz  
24 Merchant dismissed all charges against KETTELL.

25           43. At all times COSS' actions were objectively unreasonable in light of the facts and  
26 circumstances confronting him. No reasonable officer would have behaved as COSS behaved.  
27 KETTELL was clearly in a demonstrably dangerous unsafe situation caught between COSS' boat and  
28 a wooden dock—she indicated she was going to her grandparent's home, pointed in the direction she

1 was going, and provided the address. She went exactly where she said she would go and she went there  
2 because it was dangerous for her to remain where she was.

3 44. At no time did KETTELL pose an immediate threat (or any threat) to the safety of  
4 COSS or to any officer or volunteer. Wearing a bikini bathing suit, it was obvious she had no weapon  
5 and at no time behaved in an assaultive manner to anyone. She did not push, strike, or shove COSS or  
6 any officer. She was not a flight risk. She was surrounded by officers. She did not swing at COSS or  
7 advance on him with an object. A reasonable officer in these circumstances would know it was  
8 objectively unreasonable to deploy force against a slender young girl who had not threatened or  
9 assaulted him in any way. A reasonable officer would know that continuing to knee her in a forceful  
10 way and give her additional pushes and shoves while wrenching her arm behind her back while she lay  
11 face first in the sand was malicious, cruel, and vengeful—completely unnecessary, excessive, and  
12 unreasonable.

13 45. Further, keeping KETTELL face first in the hot sand after she was handcuffed was  
14 extreme and unwarranted—she posed no physical threat and was completely debilitated.

15 46. At no time did COSS issue a warning that physical force would be used.

16 47. At no time was KETTELL resisting.

17 48. The character of the offense, failing to wear or have on her paddleboard a life vest is a  
18 very minor crime--inherently not dangerous or violent. Virtually all paddle boarders on Lake Tahoe on  
19 the day in question did not wear life jackets or carry them on paddleboards.

20 49. At no time was any force necessary or justified, at no time was the unnecessary  
21 infliction of wanton pain appropriate. KETTELL was standing on her grandparent's private beach,  
22 exactly where she said she would be, approaching COSS and trying to resolve a miscommunication.

23 50. COSS at no time considered less intrusive methods of affecting the arrest. Less intrusive  
24 means of force were available other than throwing her face first into the hot sand, physically grabbing,  
25 assaulting, twisting her body and leaping with his full weight upon her backside while she was  
26 handcuffed and then pushing her down with additional shoves and pulls to maximize her pain.

27 51. At all times COSS intentionally or recklessly provoked a violent and brutal assault  
28 without provocation or need.

1           52. At all times COSS was aware back up officers would be arriving on the scene. Not only  
2 did he have the assistance of four volunteer deputies, but he know additional officers including but not  
3 limited to paramedics, firefighths, and Washoe County deputies would be arriving to assist him.

4           53. At all times COSS intentionally singled out KETTELL, discriminating against her  
5 based on gender, treating her vastly differently from her male companion. COSS ogled her, jumped on  
6 top of her, and forcefully kept his hands on her even when she was handcuffed while ignoring her  
7 similarly situated male companion. At all times COSS was aware he was inflicting pain and suffering  
8 as KETTELL periodically cried out he was “hurting her” and kept on inflicting the pain with  
9 unnecessary arm twists, pushes, and pulls. This conduct was intentional, wanton, malicious and  
10 oppressive and made with reckless indifference to plaintiff’s rights.

11           54. The conduct by COSS constituted an unreasonable and excessive use of force and an  
12 unlawful exercise in police authority.

13           55. As a result of the above-described acts, KETTELL was deprived of rights and  
14 immunities secured to her under the Constitution and the laws of the United States including, but not  
15 limited to: Her right under the Fourth Amendment to be free from excessive and unreasonable force.

16                           **FIRST CAUSE OF ACTION**

17                   **(Fourth and Fourteenth Amendments, Excessive Force – 42 U.S.C. § 1983)**

18           56. KETTELL realleges and incorporates each and every allegation contained in the  
19 preceding paragraphs.

20           57. At no time did KETTELL pose a threat to the safety of COSS or to anyone else.

21           58. The severity of KETTELL’s purported offense in failing to have with her a life vest is  
22 the most minor of offenses.

23           59. Dressed in a bikini, it was readily apparent KETTELL was unarmed.

24           60. At no time did KETTELL level a verbal threat or physical threat to COSS.

25           61. At all times COSS failed to provide KETTELL with a warning that the use of force was  
26 imminent while it was entirely feasible for him to do so.

27           62. The use of force was excessive and unreasonable, causing physical pain and suffering  
28 for months after the incident.

63. By the actions described above, COSS deprived KETTELL of the following clearly established and well-settled constitutional rights:

- a. Freedom from the use of excessive and unreasonable force;
- b. Freedom from the deprivation of liberty without due process of law;
- c. Freedom from summary punishment; and,

64. COSS subjected plaintiff to these deprivations of her rights either maliciously, or by acting with a reckless disregard for whether plaintiff's rights would be violated by their actions.

65. As a direct and proximate result of the aforescribed unlawful and malicious conduct by COSS, committed under color of law and under his authority as a Washoe County Sheriff's Deputy, KETTELL suffered substantial economic loss, medical bills, grievous bodily harm requiring medical attention, prolonged physical pain and suffering, and emotional distress. As a result, she was deprived of her right to be secure in her person against violations of her rights under the Fourth Amendment of the United States Constitution.

66. The acts of COSS were intentional, wanton, malicious and oppressive and made with reckless indifference to plaintiff's rights thus entitling plaintiff to an award of punitive damages against COSS.

## **SECOND CAUSE OF ACTION**

### **(Pendent State Claims: Assault and Battery)**

67. Plaintiff KETTELL realleges and incorporates each and every allegation contained in the preceding paragraphs.

68. Defendant COSS forcibly touched, grabbed, and kept plaintiff subdued in a police hold that did not allow her to move and thereafter restricted her movement, holding her against her will without his permission.

69. Plaintiff KETTELL was touched, grabbed, thrown to the ground and manhandled by COSS, causing her physical injury.

70. COSS' touch to plaintiff was unwelcome.

71. At all times Plaintiff KETTELL was frightened of COSS, fearful he would be beating her, authorizing others to beat her, and harming her.

## **PRAYER FOR RELIEF**

1. For a declaratory and injunctive relief that the policies, practices, and acts complained of herein are illegal and unconstitutional;

3. For exemplary and punitive damages from COSS in an amount to be determined at trial;

5. For leave to amend this complaint should it become necessary;

6. For nominal damages;

7. For such other and further relief as this Court may deem appropriate.

DATED this \_\_\_\_\_ day of \_\_\_\_\_ 2012,

13